

**APPENDIX A****NATIONAL TRANSPORTATION POLICY**

[September 18, 1940.] [49 U.S.C., preceding § 1, 301, 901, and 1001.] It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions;—all to the end of developing, coordinating and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this Act shall be administered and enforced with a view to carrying out the above declaration of policy.

**COMBINATIONS AND CONSOLIDATIONS OF  
CARRIERS**

Sec. 5. [As amended August 24, 1912, February 28, 1920, June 10, 1921, June 16, 1933, June 19, 1934, August 9, 1935, September 18, 1940, and August 2, 1949.] [49 U.S.C. § 5.]

. . . . .

(2)(a) It shall be lawful, with the approval and authorization of the Commission, as provided in subdivision (b)—

(i) for two or more carriers to consolidate or merge their properties or franchises, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership; or for any carrier, or two or more carriers jointly, to purchase, lease, or contract to operate the properties, or any part thereof, of another; or for any carrier, or two or more carriers jointly, to acquire control of another through ownership of its stock or otherwise; or for a person which is not a carrier to acquire control of two or more carriers through ownership of their stock or otherwise; or for a person which is not a carrier and which has control of one or more carriers to acquire control of another carrier through ownership of its stock or otherwise; or

(ii) for a carrier by railroad to acquire trackage rights over, or joint ownership in or joint use of, any railroad line or lines owned or operated by any other such carrier, and terminals incidental thereto.

(b) Whenever a transaction is proposed under subparagraph (a), the carrier or carriers or person seeking authority therefor shall present an application to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties of the carriers involved in the proposed transaction is situated, and also such carriers and the applicant or applicants (and in case carriers by motor vehicle are involved, the persons specified in Section 205(e)), and shall afford reasonable opportunity for interested parties to be heard. If the Commission shall consider it necessary in order to determine whether the findings specified below may properly be made, it shall set said application for public hearing; and a public hearing shall be held in all cases where carriers by railroad are involved unless the Commission determines that a public hearing is not necessary in the public interest. If the Commission finds that, subject to such terms and conditions and such modifications as it shall find to be just and reasonable, the proposed transaction is within the scope of sub-

paragraph (a) and will be consistent with the public interest, it shall enter an order approving and authorizing such transaction, upon the terms and conditions, and with the modifications, so found to be just and reasonable: *Provided*, That if a carrier by railroad subject to this part, or any person which is controlled by such a carrier, or affiliated therewith within the meaning of paragraph (6), is an applicant in the case of any such proposed transaction involving a motor carrier, the Commission shall not enter such an order unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

### SUIT TO SET ASIDE COMMISSION ORDER

Sec. 17(9). [September 18, 1940.] [49 U.S.C. § 17(9).]

(9) When an application for rehearing, reargument, or reconsideration of any decision, order, or requirement of a division, an individual Commissioner, or a board with respect to any matter assigned or referred to him or it shall have been made and shall have been denied, or after rehearing, reargument, or reconsideration otherwise disposed of, by the Commission or an appellate division, a suit to enforce, enjoin, suspend, or set aside such decision, order, or requirement, in whole or in part, may be brought in a court of the United States under those provisions of law applicable in the case of suits to enforce, enjoin, suspend, or set aside orders of the Commission, but not otherwise.

### JUDICIAL REVIEW OF ORDERS . .

Sec. 205(g). [August 9, 1935, amended September 18, 1940, and May 24, 1949.] [49 U.S.C. § 305(g).]

(g) Any final order made under this part shall be subject to the same right of relief in court by any party

in interest as is now provided in respect to orders of the Commission made under Part I: *Provided*, That where the Commission, in respect of any matter arising under this part, shall have issued a negative order solely because of a supposed lack of power, any such party in interest may file a bill of complaint with the appropriate District Court of the United States, convened under Section 2284 of Title 28 of the United States Code, and such court, if it determines that the Commission has such power, may enforce by writ of mandatory injunction the Commission's taking of jurisdiction.

#### INCORPORATION OF PROVISIONS OF SECTION 17

Sec. 205(h). [August 9, 1935, amended September 18, 1940.] [49 U.S.C. § 305(h).]

(h) All the provisions of Section 17 of Part I shall apply to all proceedings under this part.

#### ISSUANCE OF CERTIFICATE

Sec. 207(a). [August 9, 1935.] [49 U.S.C. § 307(a).]

(a) Subject to Section 210, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied: *Provided, however*, That no such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes, and between fixed termini, except as such carriers may be authorized to engage in special or charter operations.

## PERMITS FOR CONTRACT CARRIERS BY MOTOR VEHICLE

Sec. 209(b). [August 9, 1935, amended June 29, 1938, September 18, 1940, September 1, 1950, and August 22, 1957.] [49 U.S.C. § 309(b).]

(b) Applications for such permits shall be made to the Commission in writing, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission may, by regulations, require. Subject to Section 210, a permit shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application, if it appears from the applications or from any hearing held thereon, that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this part and the lawful requirements, rules, and regulations of the Commission thereunder, and that the proposed operation, to the extent authorized by the permit will be consistent with the public interest and the national transportation policy declared in this Act; otherwise such application shall be denied. In determining whether issuance of a permit will be consistent with the public interest and the national transportation policy declared in this Act, the Commission shall consider the number of shippers to be served by the applicant, the nature of the service proposed, the effect which granting the permit would have upon the services of the protesting carriers and the effect which denying the permit would have upon the applicant and/or its shipper and the changing character of that shipper's requirements. The Commission shall specify in the permit the business of the contract carrier covered thereby and the scope thereof, and it shall attach to it at the time of issuance, and from time to time thereafter, such reasonable terms,



conditions, and limitations, consistent with the character of the holder as a contract carrier, including terms, conditions and limitations respecting the person or persons and the number or class thereof for which the contract carrier may perform transportation service, as may be necessary to assure that the business is that of a contract carrier and within the scope of the permit, and to carry out with respect to the operation of such carrier the requirements established by the Commission under section 204(a)(2) and (6): *Provided*, That within the scope of the permit and any terms, conditions or limitations attached thereto, the carrier shall have the right to substitute or add to its equipment and facilities as the development of its business may require: *Provided further*, That no terms, conditions or limitations shall be imposed in any permit issued on or before the effective date of this proviso which shall restrict the right of the carrier to substitute similar contracts within the scope of such permit; or to add contracts within the scope of such permit unless, upon investigation on its own motion or petition of an interested carrier the Commission shall find that the scope of the additional operations of the carrier is not confined to those of a contract carrier as defined in section 203(a)(15), as in force on and after the effective date of this proviso.

### DUAL OPERATIONS

Sec. 210. [August 9, 1935, amended September 18, 1940] [49 U.S.C. § 310.] Unless, for good cause shown, the Commission shall find, or shall have found, that both a certificate and a permit may be so held consistently with the public interest and with the national transportation policy declared in this Act—

(1) No person, or any person controlling, controlled by, or under common control with such person, shall hold a certificate as a common carrier authorizing operation for the transportation of property by motor vehicle over

a route or within a territory, if such person, or any such controlling person, controlled person, or person under common control, holds a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory; and

(2) No person, or any person controlling, controlled by, or under common control with such person, shall hold a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over a route or within a territory, if such person, or any such controlling person, controlled person, or person under common control, holds a certificate as a common carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory.

**APPENDIX B****Testimony of Appellant Motor Carriers Regarding Their Facilities and Willingness To Serve General Motors**

*David M. Lee, Vice President and General Manager, Robertson Truckways, Los Angeles, Calif.* His company has authority to perform initial movements of automobiles from Los Angeles to points in California, Oregon, Nevada and Arizona. This authority includes the right to serve South Gate, Van Nuys and Raymer. R. 426; Exhibits 98, 100, and 105, R. 569, 585, 591. Robertson has been engaged in the transportation of automobiles for twenty-eight years, and provides extensive daily service to states adjoining California. R. 424-425.

The major percentage of Robertson's business is with Chrysler (R. 425), but the witness stated that some traffic was moved from the Chevrolet plant at Raymer on Government bills of lading (R. 425, 430), and referred to a movement of Oldsmobiles from the B-O-P plant at South Gate. R. 433. Two loads were also handled from the B-O-P plant to San Francisco in 1955. R. 441.

The equipment operated by his company is suitable for the transportation of General Motors automobiles, and no difficulty, equipment-wise, has been experienced in handling GM cars. R. 424, 425, 426.

Robertson has solicited GM for business frequently. R. 426, 429. It is ready, willing and able to transport GM automobiles, wants the traffic very much, has the necessary equipment to handle GM cars and is financially able to add additional equipment if needed. R. 426-427. However, except for the movements on Government bills of lading and the few hauls out of the B-O-P plant, it has not secured any GM business, although it was told that GM was aware of its service and had copies of its tariff R. 430.



New storage facilities would be acquired near the GM plants involved if Robertson were given GM traffic. R. 439. Traffic is presently being interchanged with other automobile carriers and similar service would be provided for GM traffic destined to points not served directly by Robertson. R. 433-434.

Robertson also has secondary authority from points within twenty miles of San Leandro, California (which includes Oakland) to the eleven western states. R. 427, 434.

*T. J. Young, Vice President, Hadley Auto Transport, Long Beach, Calif.* Hadley, a contract carrier, maintains terminals at Long Beach and Milpitas, and a storage yard at Los Angeles. R. 443-444.

Hadley has extensive authority to transport automobiles, in initial movements, in truckaway service. Exhibit 107 (R. 594-598). The map introduced as Exhibit 108 (R. 599) shows the extent of such authority from Richmond and points in Los Angeles County to points in various states. This authority constitutes a substantial portion of the territory sought by the PMT application, and its equipment (listed in Exhibit 109; R. 600-603) can be used in the transportation of various types and forms of motor vehicles, including those produced by General Motors. R. 444-445.

Hadley has been engaged in the transportation of automobiles for twenty-five years (R. 447) and performs a daily service into the States of Arizona, Nevada, Utah and New Mexico in initial movements, with less frequent service to Montana and Idaho. R. 445. The extent of this service can be measured by Exhibit 110 (R. 604), showing cities served in the States of Arizona, Idaho, Nevada, New Mexico, Utah, and Montana, and by Exhibit 111 (R. 605), showing the number of vehicles transported during 1956 from Los Angeles County to the States of

Arizona, New Mexico, Nevada, Utah, Idaho, Wyoming, and Montana. This protestant is ready, willing and able to secure any additional equipment needed because of new business, and would be willing to enter into a contract with General Motors for the transportation of its automobiles. It would seek any additional authority which might be needed in order to provide the service desired by GM. R. 445, 446.

Hadley has transported automobiles manufactured by GM (R. 445) and until two or three years ago, had contracts for the initial movement of Nash and Willys automobiles from plants located at El Segundo and Vernon, Calif., respectively, into a number of states. R. 450.

L. F. Weisler, *President of Convoy Co., San Jose, Calif.* Convoy, a motor common carrier, maintains terminals and other facilities at Seattle, Portland, Los Angeles, San Jose, Billings, Mont. and Laramie, Wyo. A new terminal, to be finished by mid-summer, is being built at Los Angeles. R. 453-454; Exhibit 115, R. 620-621.

Exhibit 114 (R. 615-619) describes Convoy's authority from various points and places, including truckaway service in initial movements from Richmond, Calif., to points in Idaho, Washington and Oregon. R. 454, 462. The authority to serve Richmond includes the right to serve Oakland under the Commission's rules respecting commercial zones, and service is offered on that basis. R. 455.

Exhibit 116 (R. 622-630) lists the equipment operated, including 181 revenue trucks and tractors, 203 revenue trailers and semi-trailers and 31 service cars and trucks. Most of the equipment is of six car or truck-capacity, except that a few of the older rigs are five-unit. Since the exhibit was prepared, twenty new trucks have been added, most of them now in operation. Half of the equipment listed in Exhibit 116 has been put in service since the first of 1955. R. 455-456.

Convoy is able to accommodate all demands for service made upon it and could handle added traffic from GM at Oakland. If existing equipment should prove insufficient, it could acquire any additional equipment needed. R. 456.

Convoy interlines with other motor carriers and could effect such arrangements for the traffic involved in this proceeding. It would perform a single-line initial service from Oakland to points in Oregon, Idaho, and Washington. R. 457.

In 1954, Convoy solicited business from the Oakland Chevrolet plant, submitting a detailed proposal covering service and charges into the Northwest states. R. 458. Convoy has also solicited GM business on a joint rail-truck basis from Rainer and South Gate. R. 463-464.

Convoy transports vehicles for a great many GM dealers in secondary movements. It has handled occasional movements from the Oakland Chevrolet plant and considers the traffic attractive. R. 459. It is willing to establish such terminal facilities at or near the GM Oakland plant as would be needed to handle any GM traffic which might be offered. R. 465.

By stipulation, the operating authority of, and equipment operated by, B. & H. Transportation, as set forth in Exhibits 121 and 122, was received in evidence. R. 466. This authority includes the right to transport automobiles, both truckaway and driveaway, in initial movements, from Vernon (in the Los Angeles commercial zone) to all points and places in Arizona, Nevada, and the Los Angeles Harbor commercial zone. Exhibit 121, R. 637.

Also by stipulation, exhibits reflecting the operating rights, equipment facilities and methods of operation of Kenosha Auto Transport and Western Auto Transport were filed subsequent to the close of the hearing. R. 25, 469-470.

Western Auto Transports, Inc., is authorized to provide service by truckaway and driveaway, in both initial and secondary movements. Included in its rights are truckaway authority, in initial movements, from Los Angeles (Raymer and South Gate) to all points and places in Utah, and secondary authority between all points and places in California, Idaho, Nevada, Utah and Washington. It maintains terminals, among other places, at Los Angeles and Richmond, Calif., and is fully equipped to handle the traffic. If requested, Western would apply for authority to serve the GM plants in Los Angeles and Oakland, to any destination territory not presently served. R. 25-26.

Kenosha Auto Transports Corp., if requested, would apply for authority to serve the GM plants in Los Angeles and Oakland in initial movements in truckaway and driveaway service to the destination territory involved herein. R. 26.

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